

July 9, 2004 Special Meeting

The Randolph County Board of Commissioners met at 8:30 a.m. in the Training Room (moved from the Commissioners Meeting Room next door after posting notice of change in meeting place), Randolph County Office Building, 725 McDowell Road, Asheboro, NC. Commissioners Holmes, Davis, Mason, and Frye were present. Commissioner Kemp was absent. The purpose of this meeting was to consult with the County Attorney in closed session.

Chairman Holmes called the meeting to order.

On motion of Frye, seconded by Davis, the Board unanimously voted to go into closed session, pursuant to NCGS 143-318.11(a)(3), to consult with the County Attorney to consider and give instructions concerning a judicial action titled "State of North Carolina, on Relation of, County of Randolph vs Clarence Ray Jernigan individually and d/b/a Heath Amusement; Heath Cigarette and Music Service, Inc. d/b/a Heath Amusement; and James Worth Heath individually and d/b/a Heath Amusement."

The Board returned to open session at 9:18 a.m.

On motion of Frye, seconded by Davis, the Board unanimously approved the following resolution:

A RESOLUTION RATIFYING THE FILING OF NUISANCE ABATEMENT LAWSUIT

WHEREAS N.C.G.S. § 19-2.1 of the North Carolina General Statutes authorizes the County of Randolph to maintain a civil action in the name of the State of North Carolina to abate a nuisance, to perpetually enjoin all persons from maintaining the same, and to enjoin the use of any structure or thing adjudged to be a nuisance; and

WHEREAS N.C.G.S. § 19-1.2 prescribes the types of activities declared to be nuisances and includes within said description every place used for the purposes of gambling; and

WHEREAS pursuant to the authority prescribed in N.C.G.S. § 19-2.1, the Randolph County Sheriff's Department and the Alcohol Law Enforcement Division of the Department of Crime Control and Public Safety have investigated alleged public nuisances relating to the activities of Clarence Ray Jernigan, Heath Amusement, Heath Cigarette and Music Service, Inc., and James Worth Heath and have recommended that legal action be taken to abate said nuisances; and

WHEREAS the nature of the abatement action requires absolute confidentiality prior to its filing; and

WHEREAS the County Attorney, pursuant to her authority to handle the legal matters affecting Randolph County, properly authorized the filing of a Petition and Complaint in Randolph County Superior Court against Clarence Ray Jernigan, Heath Amusement, Heath Cigarette and Music Service, Inc., and James Worth Heath asking, among other things, for the

abatement of said nuisance and for the forfeiture of all personal property, vehicles, monies, contents and other considerations used or received in conducting and maintaining said nuisance as provided by Chapter 19, Article 1 of the North Carolina General Statutes; and

WHEREAS said action was actually filed in Randolph County Superior Court on May 20, 2004.

BE IT THEREFORE RESOLVED that the Randolph County Board of Commissioners does hereby ratify the actions of the Randolph County Attorney in filing the action entitled "State of North Carolina, On Relation of, County of Randolph vs. Clarence Ray Jernigan, individually and d/b/a Heath Amusement; Heath Cigarette and Music Service, Inc. d/b/a/ Heath Amusement; and James Worth Heath, individually and d/b/a Heath Amusement" in the Randolph County Superior Court on May 20, 2004.

Having no further business, the Board adjourned at 9:20 a.m.

J. Harold Holmes, Chairman

Darrell L. Frye

Robert B. Davis

Robert O. Mason

Alice D. Dawson, Clerk to the Board